



W.P.(MD) No.15706 & 15707 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.11.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) Nos.15706 & 15707 of 2017

P.Selvaraj (Died)

1.P.Madhu

2.P.Muhesh

... Petitioners in both W.Ps.,
(P1 & P2 are substituted vide Court order dated 28.11.2024 in WMP(MD).No.
2873 & 2898 of 2024 in W.P.Nos.15706 & 15707 of 2017)

/vs./

1.The State of Tamil Nadu,
Represented by The Principal Secretary,
Energy Department,
State of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

2.The Chairman Cum Managing Director,
Tamil Nadu Electricity Board,
Chennai.

3.The Superintending Engineer,
Tamilnadu Electricity Board (REDC),
Ramanathapuram, Ramanathapuram District.



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4.The Assistant Engineer,
Tamilnadu Electricity Board (SS),
Kilakkarai Distribution Circle,
Kilakkarai, Ramanathapuram District.

... Respondents in both W.Ps.,

PRAYER in W.P.No.15706 of 2017 : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondents to pay Rs.10,00,000/- (Rupees Ten Lakhs only) as compensation for the unexpected death of the petitioner's daughter namely Mutharasi due to the electrocution and may ordered to pay the bankable interest as fixed by this Court form the date on which the petitioner daughter was died as compensation to the petitioner and pass such further order.

PRAYER in W.P.No.15707 of 2017 : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondents to pay Rs.10,00,000/- (Rupees Ten Lakhs only) as compensation for the unexpected death of the petitioner's husband namely Pushparaj due to the electrocution and may ordered to pay the bankable interest as fixed by this Court form the date on which the petitioner daughter was died as compensation to the petitioner and pass such further order.

For Petitioners : Mr.A.Kannan in both W.Ps

For Respondents : Mr.J.K.Jeyaseelan GA for R1 in both W.Ps

: Mr.S.Deenadhayalan
Standing counsel for RR2 to 4 in both W.Ps



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COMMON ORDER

These two Writ Petitions have been filed by the unfortunate lady, who had lost her daughter and her husband quick succession.

2. It is very sad that the petitioner had also died during the pendency of the Writ Petition and is now represented by her surviving son and daughter.

3. It is the case of the petitioners that the daughter and husband of the original petitioner had got electrocuted on the line that had been running adjacent to the balcony of their residence. An FIR had also been registered in both the incidents, which had taken place within a gap of five months of each. It is to be noted that the first incident had occurred on 08.02.2016 and the second incident had occurred on 26.07.2016. It is the case of the petitioner that had the respondents acted swiftly, the second incident also could not have occurred. According to the original petitioner, the occurrence of the first incident itself was because that the respondents had not taken any steps for protecting the HT line that had been laid in front of the house. Therefore, he would submit that the respondents particularly respondents 3 & 4 had acted in a



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negligent manner leading to the cause of the incidents by which the original petitioner had lost her daughter and husband. Hence, he would submit that the respondents are liable to pay the compensation for the loss of the petitioner's daughter and husband.

4. Countering his arguments, Mr.S.Deenadhayalan, learned Standing counsel appearing on behalf of the respondents 2 to 4 would submit that the lines were available, even before the house of the petitioner was built and they ought to have been more careful in not building the house closer to the electrical line. He would further submit that the family members of the original petitioner ought to have been careful and acted in a diligent manner to not to get in touch with the HT line. He would further submit that when the first incident had occurred in the month of February 2016 more caution would have been taken by the husband of the petitioner to not to get again in touch with the said electrical line. Therefore, he would submit that the respondents cannot be held liable for the incident that had occurred. He would further submit that it is not the case of not properly maintaining the electricity line and therefore, the Writ Petition is liable to be dismissed.



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5. I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials placed on record.

6. It is the case of the respondents that the HT line was already present, when the petitioner had built the house. It is the further case of the respondents that the petitioner ought not to have built the house so close which led to the incidents.

7. It is to be noted that when such residence have been put up by the petitioner which would endanger the lives of the occupants, the respondents ought not to have given electrical connection to the house allowing them to occupy the building. It cannot be the case of the respondents that they were not aware of the danger putting up connections close to such HT lines. Had they not energized the house granting electricity connection, the family of the petitioner could not have occupied the building and such unfortunate incidents could not have occurred. Further when it was reported as early as in the month of February 2016 of the loss of one individual, no action had been taken by the respondents either to place some safety equipments nor have they shifted the



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line, had they done that, the second incident could not have occurred and the husband of the original petitioner and the father of the present petitioners would have been alive now. Further, only after the occurrence of the second incident, the HT lines have been moved away from the building. Had this act been made pro-actively, two lives would have been saved. Hence, I am of the view that it is only because of the negligent act of the respondents, particularly the respondents 3 & 4, the entire incident had occurred.

7. I had an occasion to deal with a similar issue, where the liability was fastened on the Electricity Department and relying upon the Board Proceedings issued by the Department, I have directed the payment of *exgratia* amount of Rs.5,00,000/- as envisaged in the Board Proceedings of the respondent. The said order came to be passed in W.P.(MD).No.368 of 2014, dated 09.01.2023. For better appreciation, the relevant paragraphs of the said order is extracted hereunder:-

10.In such event, I am of the view that the Electricity Board is bound to pay compensation. The learned counsel for the petitioner had placed reliance on the order of this Court made in W.P.(MD) No.6771 of 2013 (Manimuthu Pattan and another Vs.



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The Principal Secretary, Electricity Department, Chennai and others) dated 24.08.2022. Placing reliance on the aforesaid judgment, he would submit that this Court has to follow the calculations made as to compensation in this case. This has been countered by the learned Standing Counsel for the respondents 1, 3 and 4 stating that the Hon'ble Apex Court in SDO, Grid Corporation of Orissa Limited and others Vs. TimuduOram reported in 2005 6 SCC 156, had stated that the quantum of compensation is to be arrived on the basis of the material facts pleaded and proved. He would submit that the affidavit of the writ petitioner does not disclose as to what is the loss that was suffered by the petitioner due to the incident and there were also no material facts pleaded much less prove.

11.Since there was no material placed before this Court as to the claim of the petitioner, based upon the materials I do not propose to fall in line with the judgment of this Court stated supra. However, it is apparent that by TANGEDCO proceedings No.5 dated 29.04.2013, the TANGEDCO on compassionate grounds had directed payment of exgratia to the cases of electrocution. The said amount of compensation is revised by further proceedings in TANGEDCO Proceedings No.6 dated 16.10.2019, wherein the compensation has been enhanced to Rs.5,00,000/-.

12.In the light of the proceedings dated 16.10.2019, I am of



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the view that the petitioner would be entitled for payment of exgratia amount of Rs.5,00,000/-. At this juncture, the learned Standing Counsel for the respondents 1, 3 and 4 would submit that the incident had occurred in 2011 and therefore, the earlier proceedings dated 29.04.2013 alone would be applicable. I am not in agreement with the said contention. Such proceedings of the Board are compassionate for the loss of life and in view of the enhancement by the subsequent proceeding, the petitioner would be entitled for the same.

8. Since I have already found that it is only due to the negligence of the respondents, the incidents had occurred, there shall be a directions to the respondents to pay a sum of Rs.5,00,000/- in each of the Writ Petitions and such payment shall be made to the petitioners, within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, these Writ Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed. However there shall be no order as to costs.

Index : Yes / No
Internet : Yes / No
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28.11.2024

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To

- 1.The State of Tamil Nadu,
Represented by The Principal Secretary,
Energy Department,
State of Tamil Nadu,
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Chennai – 600 009.
- 2.The Chairman Cum Managing Director,
Tamil Nadu Electricity Board,
Chennai.
- 3.The Superintending Engineer,
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K.KUMARESH BABU, J.

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